

UNITED STATES GOVERNMENT  
MEMORANDUM

DATE: May 9, 1996

FROM: Barbara Beach, Legal Technician  
Office of Administrative Law Judges

SUBJECT: MM Docket 96-71, Kokomo, Indiana

TO: Office of Public Affairs  
Reference Operations Division  
Attention: Dockets Branch

DOCKET FILE COPY ORIGINAL

In accordance with Administrative Law Judge Arthur Steinberg's Memorandum Opinion and Order FCC 96M-101, released May 9, 1996, please place in MM Docket 96-71 the attached letter from William R. Nolan, counsel for Kokomo School Corporation.

The original FM broadcast station license has been forwarded to the Mass Media Bureau Audio Services Division for cancellation.

*Barbara Beach*

Barbara Beach

Enclosures

Before the  
FEDERAL COMMUNICATIONS COMMISSION      FCC 96M-101  
Washington, D.C. 20554

61286

In the Matter of	}	MM DOCKET NO. 96-71
	}	
KOKOMO SCHOOL CORPORATION	}	File No. BRED-890330VV
	}	
For Renewal of License for	}	
Station WHSK(FM), Kokomo, Indiana	}	

MEMORANDUM OPINION AND ORDER

Issued: May 7, 1996      ;      Released: May 9, 1996

By Hearing Designation Order, DA 96-467, released April 1, 1996 ("HDO"), this case was designated for hearing. Issues were specified to determine whether Kokomo School Corporation ("KSC") violated the Commission's rules by remaining off the air for over seven years, to determine whether KSC has the capability and intent expeditiously to resume broadcast operations, and to determine whether the renewal application of KSC should be granted. In order to maintain the fullest possible flexibility of action, the HDO also constituted a notice of apparent liability for forfeiture in connection with the alleged rule violations.

By letter addressed to the Presiding Judge, dated May 1, 1996, counsel for KSC stated that the licensee wished "to permanently discontinue its FM radio station . . . and is surrendering its license . . . ." The letter explained that the tower for the station fell in April 1988, following which there was internal broadcasting only within the school building. Since 1992, there have been no broadcasts over the station. The original FM Broadcast Station License (FCC Form 352-A), dated May 25, 1984, was enclosed with counsel's letter.

Given these circumstances, it is clear that the licensee does not intend to prosecute its application, and that no useful purpose would be served by going forward with the hearing. Consequently, KSC's application for renewal of license will be dismissed and this proceeding will be terminated. See Section 73.3568(b) of the Commission's Rules, 47 C.F.R. § 73.3568(b).<sup>1</sup>

Accordingly, IT IS ORDERED that the above captioned application of Kokomo School Corporation for renewal of license for Station WHSK(FM), Kokomo, Indiana, IS DISMISSED with prejudice.

IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

*Arthur I. Steinberg*

Arthur I. Steinberg  
Administrative Law Judge

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<sup>1</sup> Counsel's letter is being sent to the Office of Public Affairs, Reference Operations Division, Mass Media and Adjudication Branch, for inclusion in the record of this proceeding. The Station License is being forwarded to the Mass Media Bureau, Audio Services Division, for cancellation.

ELLIS, GAMBLE & NOLAN  
LAW OFFICES

WILLIAM R. NOLAN

421 WEST SYCAMORE STREET  
KOKOMO, INDIANA 46901

FAX (317) 452-6111  
TELEPHONE (317) 457-3238

G. RICHARD ELLIS (RETIRED)  
DANIEL J. GAMBLE (RETIRED)

(Dict. April 30, 1996)  
May 1, 1996

Judge Arthur I. Steinberg  
Administrative Law Judge  
Federal Communication Commission  
1919 M Street North West  
Mail Stop 0900  
Washington, D.C. 20554

Re: Matter of Kokomo School Corporation  
MM Docket No. 96-71  
File No. BRED-890330VV

Dear Judge Steinberg:

This will serve to confirm our telephone conversation of today that Kokomo School Corporation (Kokomo-Center Township Consolidated School Corporation) wishes to permanently discontinue its FM radio station WHSK(FM) and is surrendering its license which is enclosed.

I am advised by my client that the tower for this station fell in April of 1988, following which there was internal broadcasting only within a school building until 1992. Since 1992, there have been no broadcasts over the station.

My client is taking this action with the understanding that there will be no fine, penalty or forfeiture entered in connection with this matter.

It is my understanding that this will effectively conclude this matter. You indicated we would be receiving additional documentation from the FCC.

Thank you for your cooperation.

Sincerely yours,

  
William R. Nolan

WRN:cdh  
Enclosure

RECEIVED  
MAY 13 '96  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

cc: Mark L. Berlin  
Federal Communication Commission  
w/enc.

Dr. Roger W. Thornton, Superintendent  
Kokomo-Center Township Consolidated School Corporation  
w/enc.

United States of America  
FEDERAL COMMUNICATIONS COMMISSION  
NON-COMMERCIAL EDUCATIONAL  
FM BROADCAST STATION LICENSE

File No. BLED-831219AA  
Call Sign: WHSK  
CLASS D (SECONDARY)

Subject to the provisions of the Communications Act of 1934, as amended, treaties, and Commission Rules, and further subject to conditions set forth in this license, <sup>1/</sup> the LICENSEE

KIKOMO SCHOOL CORPORATION

is hereby authorized to use and operate the radio transmitting apparatus hereinafter described for the purpose of broadcasting for the term ending 3 a.m. Local Time: AUGUST 1, 1989

The licensee shall use and operate said apparatus only in accordance with the following terms:

1. Frequency (MHz) . . . . . 98.9
2. Transmitter output power . . . . . 0.010 kw
3. Effective radiated power . . . . . .013 kw (H&V)
4. Antenna height above  
    average terrain (feet) . . . . . 96 feet (29 meters) (H&V)
5. Hours of operation . . . . . Unlimited
6. Station location . . . . . Kokomo, Indiana
7. Main studio location . . . . . 2501 S Berkley Road  
    Kokomo, Indiana
8. Remote Control point . . . . . --
9. Antenna & supporting structure: North Latitude: 40 ° 27 ' 24 "  
    West Longitude: 86 ° 09 ' 24 "  
    PHELPS-DODGE ECFM-4, four sections, circularly polarized, mounted at the 115 foot  
    (35 meters) level (C/R-AGL) on a self-supporting triangular tapered pipe. OVERALL  
    HEIGHT ABOVE GROUND: 130 feet (40 meters) (without obstruction lighting)
10. Transmitter location . . . . . 2501 South Berkley Road  
    Kokomo, Indiana
11. Transmitter(s) (See Sections 73.1660, 73.1665 and 73.1670 of Commission's Rules) . . . . . Type Accepted
12. Obstruction markings specifications in accordance with the following paragraphs of FCC Form 715: None Required
13. Conditions: --

The Commission reserves the right during said license period of terminating this license or making effective any changes or modification of this license which may be necessary to comply with any decision of the Commission rendered as a result of any hearing held under the rules of the Commission prior to the commencement of this license period or any decision rendered as a result of any such hearing which has been designated but not held, prior to the commencement of this license period.

This license is issued on the licensee's representation that the statements contained in licensee's application are true and that the undertakings therein contained so far as they are consistent herewith, will be carried out in good faith. The licensee shall, during the term of this license, render such broadcasting service as will serve public interest, convenience, or necessity to the full extent of the privileges herein conferred.

This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequency designated in this license beyond the term hereof, nor in any other manner than authorized herein. Neither the license nor the right granted hereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934. This license is subject to the right of use or control by the Government of the United States conferred by section 606 of the Communications Act of 1934.

<sup>1/</sup> This license consists of this page and pages

Dated: May 25, 1984  
dac

FEDERAL  
COMMUNICATIONS  
COMMISSION



FCC Form 352-A  
January 1980